

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**(Continuation of California Notice Register 2002, No. 51-Z,  
and Meeting of December 6, 2002.)**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 7071, 7852.2, 7858 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific Sections 7071, 7852.2, 7857, 7858, 8585.5, and 8587.1 of said Code, proposes to amend Sections 150.02 and 150.04, Title 14, California Code of Regulations, regarding Permits to Commercially Take Deeper Nearshore Fish Species.

**Updated Informative Digest/Policy Statement Overview**

In May of 2002, the Commission established control dates for nine species of nearshore fish stocks that serve to notify commercial fishermen that if they have not participated in this component of the nearshore fishery prior to 1999, they may not qualify for participation in a fishery for these species under a future restricted access program. These species include black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish, which are the nearshore species for which a Nearshore Fishery Permit is not required. This action demonstrated a willingness by the Commission to proceed with restricting access to this resource.

The Commission is proposing to adopt regulations which would establish a Deeper Nearshore **Species** Fishery permit specifically to cover **the eight rockfish species of this group in order** to prevent additional fishing effort **on these resources which may occur as a result of displacement from the shallow component of the nearshore fishery, or from closure of shelf rockfish fisheries. This permit would not be required for the commercial take of monkeyface eel.** In order to qualify for initial issuance of this permit, the Commission will select from a range of aggregate landings between 0-500 pounds of these **rockfish** species landed between January 1, 1994 and December 31, 1999.

**The Commission will also select a fee for the permit from a range of \$125 - \$1200. Additionally, the regulations also provide permit appeal and renewal processes for the deeper nearshore fishery permit, including provisions for late applicants.**

**Additional changes are proposed which make minor modifications to existing regulatory language that establishes a control date for a gear endorsement program for these species.**

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the State Capitol, Senate Chambers, Room 4203, Sacramento, CA, on February 7, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be

submitted on or before January 31, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than February 7, 2003, at the hearing in Sacramento, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Fred Wendell, Department of Fish and Game, Marine Region, Nearshore Ecosystem Coordinator, (831) 649-2893, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

#### Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each nearshore fishery permittee, buyer or processor is considered a business. The proposed regulations are not expected to have a significant statewide adverse economic impact on businesses. By requiring an aggregate total of between 0 and 500 pounds landed between 1994-1999 some unknown number of fishermen may be excluded from the fishery at this time. However, as stated above, this regulatory action is considered a "first cut" to address the issue of excess fishing capacity and the long-term viability of the deeper water

nearshore fish species. If the development of a formal restricted access program is deemed to have the potential for adverse economic impact, the matter will be addressed at the time those regulations are considered by the Commission.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business.

### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

John M. Duffy  
Assistant Executive Director

Date: January 7, 2003

